

REMARKS

Claims 1 and 3-66 are pending in this application, claims 31-55 having been withdrawn. By this Amendment, claims 65 and 66 are added. Support for new claims 65 and 66 can be found at least at Figures 6-9, and the corresponding description in the specification. No new matter is added.

The courtesies extended to Applicants' representative by Examiner Bowers at the interview held May 12, 2009, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below, which constitute Applicants' record of the interview.

I. Claim 64 Satisfies Formal Requirements

Claim 64 is objected to for being grammatically disjointed. As discussed during the personal interview, the extra text after claim 64 was not part of the claim and thus claim 64 does not need to be amended. As agreed during the personal interview, the clean presentation of claim 64 in this Amendment overcomes the objection. Withdrawal of the objection is thus respectfully requested.

II. The Claims Define Patentable Subject Matter

Claims 1, 3-12, 18-30 and 56-58 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 4,976,708 to Oshiyama in view of U.S. Patent No. 5,674,397 to Pawlak et al. (hereinafter "Pawlak"); and claims 13-17 and 59-63 are rejected under 35 U.S.C. §103(a) over Oshiyama in view of Pawlak and further in view of U.S. Patent No. 5,494,822 to Sadri. The rejections are respectfully traversed.

As tentatively agreed during the personal interview, none of the applied references teaches or renders obvious an apparatus including a chamber having first, second and third chamber openings formed in one of the walls, "wherein the chamber is structured to allow

uninhibited fluid communication between the first, second and third chamber openings," as recited in independent claims 1 and 56.

The Office Action asserts that Oshiyama discloses a chamber (space 12) having a first opening (inlet conduit 15), a second opening (vent port 18) and a third opening (outlet port 17). The Office Action further asserts that the space 12 of Oshiyama has an entirely open interior and has no filter to interrupt fluid movement in Figure 1.

Oshiyama does not disclose uninhibited fluid communication between the alleged chamber openings. Indeed, Oshiyama discloses that the alleged first chamber opening, the inlet conduit 15, has a configuration to restrict the fluid flow. Oshiyama discloses a blood reservoir including the inlet conduit 15 that extends laterally into the space 12 and has a plurality of apertures 16 formed in the cylindrical wall near a closed distal end 15a.

Oshiyama, col. 5, lines 3-12. The apertures 16 "constitute sparger means for distributing blood into the space 12 as a plurality of radial fine streams" so that the blood enters the space 12 through the inlet conduit 15 in a dispersed manner to ensure that the blood calmly flows in the space 12. Oshiyama, col. 5, lines 10-21. Thus, there is restricted fluid communication between the fluid flowing through the inlet conduit 15 and the other openings of the space 12 of Oshiyama.

Further, Oshiyama teaches away from uninhibited fluid communication between the inlet conduit 15 and the other openings of the space 12. Oshiyama discloses that by distributing the blood in multiple directions upon entry into the space through an inlet port, the blood forms a moderate flow, thus "increasing the chance and time for entrained air bubbles to rise through the blood under the impetus of their own buoyancy." Oshiyama, col. 3, lines 1-8. Oshiyama further discloses that an increased blood storage volume, e.g., resulting from an intense blood stream, 1) is not recommendable because it increases the priming quantity of an overall extracorporeal circuit, increasing the possible occurrence of

hepatitis after the operation, and 2) is not desirable from the standpoint of blood saving.

Oshiyama, col. 1, lines 47-55 and col. 3, lines 1-8.

Thus, Oshiyama does not disclose a chamber that is structured to allow uninhibited fluid communication between the first, second and third chamber openings, as recited in independent claims 1 and 56.

Pawlak and Sadri do not remedy Oshiyama's deficiencies.

For at least these reasons, independent claims 1 and 56 are patentable over the applied references. Claims 3-30 and 57-63, which depend from claims 1 and 56, respectively, are also patentable over the applied references, for at least the reasons discussed above, as well as for the additional features they recite. Withdrawal of the rejections is thus respectfully requested.

New claims 65 and 66, which depend from claim 1, are also patentable over the applied references, for at least the reasons discussed above, as well as for the additional features they recite.

Oshiyama does not disclose a first chamber opening that is located at or near the bottom portion of the chamber, as recited in claims 65 and 66. Oshiyama discloses locating the inlet conduit 15 at the midpoint in the right side of the casing. Oshiyama, col. 4, lines 65-66. Oshiyama discloses that by locating the blood inlet port near the vent port at the top, air bubbles travel a relatively short path to the vent port thus ensuring more efficient debubbling. Oshiyama, col. 2, lines 56-68.

As tentatively agreed to during the personal interview, Oshiyama teaches away from the modification to include a first chamber opening that is located at or near the bottom portion of the chamber. Oshiyama discloses that a blood reservoir having an inlet port that is attached to the lower portion of the casing has a likelihood of a blood short-circuit where a part of blood entering the blood storage space from the inlet tube directly flows toward the

outlet port. Oshiyama, col. 1, line 56 - col. 2, line 8. Additionally, Oshiyama discloses that a reservoir having this configuration tends to cause blood to locally stagnate near the inlet tube and vent port. Oshiyama thus discloses that a reservoir having this configuration has a less efficient debubbling function. Oshiyama, col. 2, lines 20-34. Therefore, one of ordinary skill in the art would not have modified Oshiyama so that the inlet conduit 15 is located at or near the bottom of the casing, because it would render the blood reservoir of Oshiyama unsatisfactory for its intended purpose. See MPEP §2143.01.

III. Rejoinder of Withdrawn Claims

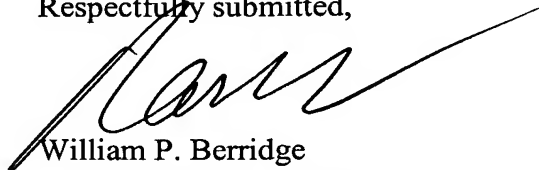
Applicants respectfully request rejoinder of withdrawn claims 31-55, upon the allowance of at least independent claim 1. Independent claim 31 include features similar to those recited in independent claim 1. Thus, upon allowance of claim 1, rejoinder and allowance of claim 31, and the claims depending therefrom, are respectfully requested. See MPEP §821.04.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:
Amendment Transmittal

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